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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

OFFICE OF THE SECRETARY

ORDER AUTHORIZING SOLICITOR AND ASSISTANT SOLICITOR OF THE DEPARTMENT OF AGRICULTURE TO AUTHENTICATE DOCUMENTS OF THE DEPARTMENT

I, Henry A. Wallace, Secretary of Agriculture, do hereby authorize the Solicitor and the Assistant Solicitor of the Department of Agriculture severally to authenticate, under the Seal of the Department of Agriculture, pursuant to Section 882 of the Revised Statutes, as amended by section 6 (a) of the act approved June 19, 1934 (48 Stat. 1109; 28 U.S.C., Sec. 661), copies of any books, records, papers, or other documents, or any books or records of account in whatever form, or minutes (or portions thereof) of proceedings, or copies of such books or records of account, or copies of such minutes of proceedings, in the Department of Agriculture; and I direct that, upon each such authenticated copy or original, as the case may be, there shall appear a recital that such copy or original has been authenticated and the Seal of the Department of Agriculture affixed thereto by the direction of the Secretary of Agriculture; and I further direct that each certificate of authentication shall bear the genuine signature of the said Solicitor or Assistant Solicitor.

This order is in addition and supplementary to the order of authorization dated December 3, 1936.

Done at Washington, D. C., this 7th day of November 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39–4138; Filed, November 7, 1939; 3:17 p. m.]

[40—Tob—8, Supp 1]

AGRICULTURAL ADJUSTMENT ADMINISTRATION

PART 727—SUPPLEMENT TO PROCEDURE FOR THE DETERMINATION OF FLUE-CURED TOBACCO ACREAGE ALLOTMENTS FOR 1940

The "Procedure for the Determination of Flue-cured Tobacco Acreage Allotments for 1940" (40–Tob–8)[1] is hereby amended as follows:

(1) Sections 727.215, 727.216, 727.217, 727.218 and 727.219 are changed to read as follows:

§ 727.215 *Acreage allotments for old farms.* Farm acreage allotments for old farms will be established as follows:

(a) There shall be allotted to each old farm that percentage of the 1940 normal acreage for the farm which the State acreage allotment, less the amount thereof reserved for allotment pursuant to paragraph (b) of this section, is of the normal acreages for all old farms in the State. The acreage so allotted to each old farm shall be the amount of the farm acreage allotment, unless increased pursuant to subsections (b) and (c) of this section.

(b) A reserve from the State acreage allotment, for the purpose of making adjustments as provided in this subsection, will be determined by the Agricultural Adjustment Administration in an amount not to exceed 5 percent of the State acreage allotment. The amount of such reserve shall be allocated by the State committee among the counties of the State upon the basis of the relative needs for adjustment of the acreage allotments determined for old farms. The amount so allocated to any county shall be allotted by the local committee among those old farms in the county whose acreage allotments, as compared with the acreage allotments for other similar old farms, are determined by the local com-

[1] 4 F.R. 3799 DI.

CONTENTS

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

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CONTENTS—Continued

NOTICES

mittee to require adjustment, in order to take into account more adequately past acreage (harvested and diverted) making due allowance for abnormal weather conditions, plant bed and other diseases; land, labor and equipment available for the production of tobacco; crop-rotation practices; and the soil and other physical factors affecting the production of tobacco.

(c) If the acreage allotment determined for any farm (except a farm operated, controlled, or directed by a person who also operates, controls, or directs another farm on which tobacco is produced) is less than that acreage which, with the normal yield for the farm, would produce 3,200 pounds of tobacco, then such acreage allotment shall be increased to the smaller of (a) 120 percent thereof, or (b) that acreage which, with the normal yield for the farm, would produce 3,200 pounds of tobacco.

§ 727.216 *Determination of 1940 normal acreage.* The 1940 normal acreage for an old tobacco farm shall be the 1939 usual acreage subject to such adjustment as the local committee determines is necessary to obtain a fair and reasonable 1940 normal acreage, taking into consideration the acreages indicated for the farm by land, labor and equipment and the 1939 harvested acreage: *Provided,* That:

(a) The 1939 usual acreage shall not be adjusted upward so as to exceed the largest of (1) 110 percent of the 1939 usual acreage; (2) four acres; or (3) the acreage obtained by adding to the 1939 usual acreage one-fifth of the number of acres by which the 1939 harvested acreage exceeds the 1939 usual acreage.

(b) The 1939 usual acreage shall not be adjusted downward to less than 80 percent of such acreage unless further adjustment is required by (c) below.

(c) The 1939 usual acreage shall be adjusted downward, if necessary, so as not to exceed the maximum normal acreage for the farm as shown in the table below:

ACRES OF CROPLAND IN FARM AND MAXIMUM NORMAL ACREAGE

25 acres or more, 40 percent of cropland.

20 to 24.0 acres, 44 percent of cropland, but not over 10 acres.

15 to 19.9 acres, 48 percent of cropland, but not over 8.8 acres.

10 to 14.9 acres, 52 percent of cropland, but not over 7.2 acres.

9.9 acres or less, 60 percent of cropland, but not over 5.2 acres.

(d) The total upward adjustments in any county pursuant to this section shall not exceed the total downward adjustments pursuant to this section by more than one-fifth of the number of acres by which the 1939 harvested and diverted acreage exceeds the 1939 usual acreage for all old farms in the county, except as otherwise approved by the State committee.

§ 727.217 *Determination of 1939 usual acreage.* The 1939 usual acreage for a farm shall be determined from the 1939 acreage allotment in accordance with the following table:

Size of allotment and 1939 usual acreage:

3.6 acres or more	=acreage obtained by dividing allotment by 70 percent.
3.5 acres	=4.9 acres.
3.4 acres	=4.6 acres.
3.3 acres	=4.2 acres.
3.2 acres	=3.8 acres.
3.1 acres	=3.5 acres.
3.0 acres or less	=acreage obtained by dividing allotment by 90 percent.

§ 727.218 *Determination of harvested and diverted acreage.* The 1939 harvested and diverted acreage for a farm shall be determined as follows:

(a) *Harvested acreage.* The harvested acreage shall be the number of acres actually harvested on the farm in 1939, except that if such number of acres was less than 60 percent of the 1939 usual acreage because of flood, drought, hail or blue mold, or other tobacco plant diseases, the harvested acreage shall be adjusted upward to 70 percent of the 1939 usual acreage.

(b) *Diverted acreage.* The diverted acreage for 1939 shall be the 1939 usual acreage minus the 1939 harvested acreage; provided that the diverted acreage shall not exceed 30 percent of the 1939 usual acreage.

§ 727.219 *Subdivided farms.* If land operated as a single farm in 1939 has been subdivided into two or more tracts, the base acreage, harvested acreage and diverted acreage of tobacco for the farm for 1939 shall be apportioned among the tracts in the proportion which the acres of cropland suitable for the production of tobacco on each such tract in such year bore to the total number of acres of cropland suitable for the production of tobacco on the entire farm in such year; provided, that if the local committee finds that such apportionment would not be equitable in view of the intended production on the farms which include such tracts it shall make such other apportionment as it determines to be fair and equitable.

(2) Sec. 727.220 is amended as follows:

The term "past tobacco acreage", wherever it appears, shall be deleted and there shall be inserted in lieu thereof the term "1939 usual acreage".

There shall be added at the end of section 727.220 the following new subsection (d):

(d) *Determination of county averages.* In computing the county averages under subsections (a), (b) and (c) of this section, there may be used, in lieu of the 1939 acreage allotments and crop acreages, the comparable data obtained in connection with the determination of 1938 flue-cured tobacco marketing quotas. Wherever the number of tobacco farms in any county is less than 200, the county averages computed for a nearby county may be used if the relation of the land, labor and equipment

available for the production of tobacco to the 1939 usual acreages in the two counties are found by the State committee to be substantially the same.

Done at Washington, D. C., this 8th day of Nov. 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4148; Filed, November 8, 1939; 12:07 p. m.]

AGRICULTURAL MARKETING SERVICE

PART 29—THE TOBACCO INSPECTION ACT

ORDER OF DESIGNATION OF TOBACCO MARKETS (LEBANON, KENTUCKY; PARIS, COLUMBIA, AND MT. PLEASANT, TENNESSEE)

Whereas, the Act of Congress approved August 23, 1935 (49 Stat., 731: 7 U.S.C., Sup. I, Chap. 21A), entitled "The Tobacco Inspection Act" contains the following provisions:

SEC. 2. That transactions in tobacco involving the sale thereof at auction as commonly conducted at auction markets are affected with a public interest; that such transactions are carried on by tobacco producers generally and by persons engaged in the business of buying and selling tobacco in commerce; that the classification of tobacco according to type, grade, and other characteristics affects the prices received therefore by producers; that without uniform standards of classification and inspection the evaluation of tobacco is susceptible to speculation, manipulation, and control, and unreasonable fluctuations in prices and quality determinations occur which are detrimental to producers and persons handling tobacco in commerce; that such fluctuations constitute a burden upon commerce and make the use of uniform standards of classification and inspection imperative for the protection of producers and others engaged in commerce and the public interest therein.

SEC. 5. That the Secretary is authorized to designate those auction markets where tobacco bought and sold thereon at auction, or the products customarily manufactured therefrom, moves in commerce. Before any market is designated by the Secretary under this section he shall determine by referendum the desire of tobacco growers who sold tobacco at auction on such market during the preceding marketing season. The Secretary may at his discretion hold one referendum for two or more markets or for all markets in a type area. No market or group of markets shall be designated by the Secretary unless two-thirds of the growers voting favor it. The Secretary shall have access to the tobacco records of the Collector of Internal Revenue and of the several collectors of internal revenue for the purposes of obtaining the names and addresses of growers who sold tobacco on any auction market, and the Secretary shall determine from said records the eligibility of such grower to vote in such referendum, and no grower shall be eligible to vote in more than one referendum. After public notice of not less than thirty days that any auction market has been so designated by the Secretary, no tobacco shall be offered for sale at auction on such market until it shall have been inspected and certified by an authorized representative of the Secretary according to the standards established under this Act, except that the Secretary may temporarily suspend the requirement of inspection and certification at any designated market whenever he finds it impracticable to provide for such inspection and certification because competent inspectors are not obtainable or because the quantity of tobacco available for inspection is insufficient to justify the cost of such service: *Provided*, That, in the event competent inspectors are not available, or for other reasons, the Secretary is unable to provide for such inspection and certification at all auction markets within a type area, he shall first designate those auction markets where the greatest number of growers may be served with the facilities available to him. No fee or charge shall be imposed or collected for inspection or certification under this section at any designated auction market. Nothing contained in this Act shall be construed to prevent transactions in tobacco at markets not designated by the Secretary or at designated markets where the Secretary has suspended the requirement of inspection or to authorize the Secretary to close any market.

and

Whereas, pursuant to said Act referendums have been held among the growers of fire-cured tobacco who sold tobacco at auction on the Paris, Tennessee, market, and among growers of Burley tobacco who sold tobacco at auction on the markets of Lebanon, Kentucky, and Columbia and Mt. Pleasant, Tennessee, during the last marketing season, in which referendums said growers were given an opportunity to vote for or against the designation as provided in Section 5 of said Act; and

Whereas, more than two-thirds of the growers voting in said referendums and who sold tobacco at auction on said markets during the last marketing season voted in favor of said designation,

§ 29.301 (n) *Designation of tobacco markets.*

Now, therefore, by virtue of the authority conferred upon me by Section 5 of The Tobacco Inspection Act and the affirmative results of the referendums conducted thereunder, the fire-cured tobacco market of Paris, Tennessee, and the Burley tobacco markets of Lebanon, Kentucky, and Columbia and Mt. Pleasant, Tennessee, are designated as markets where tobacco bought and sold thereon at auction, or the products manufactured therefrom, moves in commerce.

It is hereby ordered, That, effective 30 days from this date no tobacco shall be offered for sale at auction on the above-named markets until it shall have been inspected and certified by an authorized representative of the United States Department of Agriculture according to standards established under the Act: *Provided, however*, That the requirement of inspection and certification may be suspended at such times as it is found impracticable to provide inspection or when the quantity of tobacco available for inspection is insufficient to justify the cost of such service. No fee or charge shall be imposed or collected for the inspection and certification of tobacco sold or offered for sale at auction on the markets designated herein. (49 Stat., 731, 7 U.S.C., Sup. I, Chap. 21A)

Done at Washington, D. C. this 7th day of November 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4137; Filed, November 7, 1939; 3:17 p. m.]

TITLE 16—COMMERCIAL PRACTICES

FEDERAL TRADE COMMISSION

[Docket No. 3883]

IN THE MATTER OF PETERSIME INCUBATOR COMPANY

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results:* § 3.6 (y) *Advertising falsely or misleadingly—Safety.* Disseminating, etc., advertisements by means of the United States mails, or in commerce, to induce, etc., directly or indirectly, purchase in commerce, etc., of respondent's Petersime Electro-Thermo Bath, or other similar device or devices, which advertisements (1) represent, directly or through implication, (a) that the use of the said device Petersime Electro-Thermo Bath provides a way to better health; (b) that the use of the said device is a cure or remedy for rheumatism, arthritis, sciatica, gout, kidney trouble, nervousness, high blood pressure, colds, fatigue, poor elimination, neurosis, frayed nerves, insomnia, overweight, underweight, neuritis, lumbago, low metabolism, or any other disease or ailment of the human body, or that its use is a competent treatment therefor; (c) that the use of said device will lessen or increase body weight unless such representation is limited to a statement that the use of said device may effect a temporary loss of weight; (d) that said device will have any direct influence on basal metabolism, or that it will eliminate, cleanse, rid, purge, carry away or dispose of poisons, toxins, or wastes that cannot be taken care of by the normal processes of elimination; (2) or which advertisements fail to reveal that the regular use of the said device may be harmful, especially to debilitated individuals, and persons with deficient circulation; prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Petersime Incubator Company, Docket 3883, October 28, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 28th day of October, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of the respondent, Petersime Incubator Company, a corporation, in which answer respondent admits all the material allegations of the complaint to be true, and states that it waives hearings on the charges set forth in said complaint, and that, without further evidence or other intervening procedure the case might proceed to final hearing on the record, and the Commission having made its findings as to the facts and conclusion that said respondent, Petersime Incubator Company, a corporation, has violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Petersime Incubator Company, a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing to be disseminated any advertisements by means of the United States mails or in commerce, as commerce is defined in the Federal Trade Commission Act, by any means, for the purpose of inducing or which is likely to induce, directly or indirectly, the purchase in commerce, as commerce is defined in the Federal Trade Commission Act, of a device now designated by the name of Petersime Electro-Thermo Bath, or any other similar device or devices, whether sold under the same name or any other name or names, which advertisements (1) represent, directly or through implication, (a) that the use of the said device Petersime Electro-Thermo Bath, provides a way to better health; (b) that the use of the said device is a cure or remedy for rheumatism, arthritis, sciatica, gout, kidney trouble, nervousness, high blood pressure, colds, fatigue, poor elimination, neurosis, frayed nerves, insomnia, overweight, underweight, neuritis, lumbago, low metabolism, or any other disease or ailment of the human body, or that its use is a competent treatment therefor; (c) that the use of said device will lessen or increase body weight unless such representation is limited to a statement that the use of said device may effect a temporary loss of weight; (d) that said device will have any direct influence on basal metabolism, or that it will eliminate, cleanse, rid, purge, carry away or dispose of poisons, toxins or wastes that cannot be taken care of by the normal processes of elimination; (2) or which advertisements fail to reveal that the regular use of the said device may be harmful, especially to debilitated individuals, and persons with deficient circulation.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-4134; Filed, November 7, 1939; 1:47 p. m.]

[Docket No. 3770]

IN THE MATTER OF KIRK MEDICINE COMPANY

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in commerce, of respondents' "Kirks Tablets", "Kirks Pancreatin Compound Tablets" and "Kirks Tablets Pancreatin Compound", or other similar medicinal preparation, that said preparation will aid nature in eliminating the acid accumulations in the digestive system or that said preparation contains an alkalizing substance, or that it is a cure or remedy for, or that it is effective in the treatment of, or that it will give relief from, stomach distress, headaches, back aches, dizzy spells, indigestion and excessive accumulations of gas in the stomach, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Kirk Medicine Company, Docket 3770, October 30, 1939]

§ 3.6 (l) *Advertising falsely or misleadingly—Indorsements and testimonials:* § 3.6 (dd10) *Advertising falsely or misleadingly—Success, use or standing:* § 3.18 *Claiming indorsements or testimonials falsely.* Representing, in connection with offer, etc., in commerce, of respondents' "Kirks Tablets", "Kirks Pancreatin Compound Tablets" and "Kirks Tablets Pancreatin Compound", or other similar medicinal preparation, that thousands of users have attested to the beneficial results obtained from the use of said preparation, prohibited. (Sec. 5, 33 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Kirk Medicine Company, Docket 3770, October 30, 1939]

§ 3.6 (t) *Advertising falsely or misleadingly—Qualities or properties of product:* § 3.6 (x) *Advertising falsely or misleadingly—Results.* Representing, in connection with offer, etc., in commerce, of respondents' "Kirks Tablets", "Kirks Pancreatin Compound Tablets" and "Kirks Tablets Pancreatin Compound", or other similar medicinal preparation, that said preparation will relieve the digestive system of bacteria or that it will give relief by neutralizing and eliminating bacterial action in the digestive system, or that it will correct disorders of defective digestion or that it will give relief in all cases of chronic under-nourishment, prohibited. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Kirk Medicine Company, Docket 3770, October 30, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 30th day of October, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF LOU STERLING AND WALTER FEHR GARDNER, CO-PARTNERS, TRADING AS KIRK MEDICINE COMPANY

ORDER TO CEASE AND DESIST

This proceeding having been heard[1] by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents and a stipulation as to the facts entered upon the record (no briefs having been filed and oral argument not having been requested); and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondents, Lou Sterling and Walter Fehr Gardner, co-partners, trading as Kirk Medicine Company, or trading under any other name or through any corporate or other device, their representatives, agents, and employees, in connection with the offering for sale, sale and distribution of a medicinal preparation now designated and sold as "Kirks Tablets", "Kirks Pancreatin Compound Tablets" and "Kirks Tablets Pancreatin Compound", or of any other medicinal preparation containing substantially the same ingredients or possessing substantially the same properties whether sold under that name or any other name, in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist representing:

(1) That said preparation will aid nature in eliminating the acid accumulations in the digestive system or that said preparation contains an alkalizing substance;

(2) That said preparation is a cure or remedy for, or that it is effective in the treatment of, or that it will give relief from, stomach distress, headaches, back aches, dizzy spells, indigestion and excessive accumulations of gas in the stomach;

(3) That thousands of users have attested to the beneficial results obtained from the use of said preparation;

[1] 4 F.R. 2193 DI.

(4) That said preparation will relieve the digestive system of bacteria or that it will give relief by neutralizing and eliminating bacterial action in the digestive system;

(5) That said preparation will correct disorders of defective digestion or that it will give relief in all cases of chronic undernourishment.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-4135; Filed, November 7, 1939; 1:47 p. m.]

[Docket No. 3880]

IN THE MATTER OF BRUNSWICK WORSTED MILLS, INC., ET AL.

§ 3.6 (c) *Advertising falsely or misleadingly—Composition of goods:* § 3.66 (a) *Misbranding or mislabeling—Composition:* § 3.69 (b) (1) *Misrepresenting oneself and goods—Goods—Composition.* Offering for sale, selling or distributing, in connection with offer, etc., in commerce, of fabrics, any fabric or product composed in part of wool and in part of rayon, or any other fiber without making full and non-deceptive disclosure of the fiber content thereof, by stating the true names of the fibers present, in the order of predominance by weight, and by stating the percentages of such fibers as are present therein, prohibited; subject to the provision, however, that it shall not be necessary to state the percentage of rayon or fiber other than wool, if the rayon or fiber other than wool be used exclusively for decorative purposes and is plainly visible as a decoration, and the same being not more than 5% of the whole fabric or product by weight. (Sec. 5, 38 Stat. 719, as amended by Sec. 3, 52 Stat. 112; 15 U.S.C., Supp. IV, sec. 45b) [Cease and desist order, Brunswick Worsted Mills, Inc., et al., Docket 3880, October 31, 1939]

United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 31st day of October, A. D. 1939.

Commissioners: Robert E. Freer, Chairman; Garland S. Ferguson, Charles H. March, Ewin L. Davis, William A. Ayres.

IN THE MATTER OF BRUNSWICK WORSTED MILLS, INC., A CORPORATION, AND GEORGE O. LECKIE AND HENRY C. HASKELL, INDIVIDUALLY, AND AS CO-PARTNERS TRADING AS LECKIE & HASKELL

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents, and a stipulation as to the facts entered into between the respondents herein and W. T. Kelley, Chief Counsel for the Commission, which provides, among other things, that without further evidence or intervening procedure, the Commission may issue and serve upon the respondents herein findings as to the facts and conclusion based thereon and an order disposing of the proceeding, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act;

It is ordered, That the respondent, Brunswick Worsted Mills, Inc., a corporation, its officers, representatives, agents and employees, directly or through any corporate or other device, and the respondents George O. Leckie and Henry C. Haskell, individually, and as co-partners trading as Leckie & Haskell, in connection with the offering for sale, sale and distribution of fabrics in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from offering for sale, selling or distributing any fabric or product composed in part of wool and in part of rayon, or any other fiber without making full and non-deceptive disclosure of the fiber content thereof, by stating the true names of the fibers present, in the order of predominance by weight, and by stating the percentages of such fibers as are present therein: *Provided, however*, That it shall not be necessary to state the percentage of rayon or fiber other than wool, if the rayon or fiber other than wool be used exclusively for decorative purposes and is plainly visible as a decoration, and the same being not more than 5% of the whole fabric or product by weight.

It is further ordered, That respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON, *Secretary.*

[F. R. Doc. 39-4142; Filed, November 8, 1939; 9:54 a. m.]

TITLE 17—COMMODITY AND SECURITIES EXCHANGES

SECURITIES AND EXCHANGE COMMISSION

PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

ADOPTION OF RULE U-12C-3

Acting pursuant to the authority conferred upon it by the Public Utility Holding Company Act of 1935, particularly Sections 20 (a) and 12 (c) thereof, and finding such action necessary and appropriate in the public interest and for the protection of investors and consumers, and to carry out the provisions of said Section 12 (c), the Securities and Exchange Commission adopts the following rule, which is designated Rule U-12C-3:

§ 250.U-12C-3 (*Rule U-12C-3*). *Payments on account of obligations declared as dividends.* (a) Hereafter, except in accordance with this rule, no registered holding company and no subsidiary company thereof shall, directly or indirectly, make any payment of principal or interest on any note, bond, book account or any indebtedness however evidenced which is or was issued as, or based upon a dividend or dividends created or issued or declared from, or charged against, capital or unearned surplus, or in renewal of, or in exchange for, any such obligation, whether such dividend was declared before or after the Act took effect. In determining whether proposed payments on any such indebtedness issued or declared as a dividend in part out of earned surplus and in part out of capital or unearned surplus, or issued in renewal of, or in exchange for, such indebtedness, are permissible under this rule, past payments on account of such indebtedness or any predecessor indebtedness shall be deemed to have been first applied in reduction of the portion of such indebtedness issued or declared as a dividend out of earned surplus.

(b) A company proposing to make such a payment shall file with the Commission an application stating said purpose and setting forth the pertinent facts.

(c) After hearing on such application, the Commission will, by order, permit such payment subject to such terms and conditions as it finds necessary or appropriate in the public interest or the interest of investors or consumers unless the Commission finds that such payment

1. will be, in substance or effect or equivalence, the payment of a dividend from capital or unearned surplus and that such payment would not be permitted as a dividend on application pursuant to Rule U-12C-2 [Sec. 250.U-12C-2]; or

2. will impair the financial integrity of the applicant or of its subsidiaries, or will render inadequate the working capital of a public-utility company, or will result in the circumvention of the provisions of the Act, or the rules, regulations or orders of the Commission thereunder.

Effective November 8, 1939.

(C. 687, sec. 12, 49 Stat. 823; 15 U.S.C., Sup. III, 791: C. 687, sec. 20, 49 Stat. 833; 15 U.S.C., Sup. III, 79t) [Gen. Rules and Regs., rule U-12C-3, effective November 8, 1939]

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-4147; Filed, November 8, 1939; 11:45 a. m.]

TITLE 18—CONSERVATION OF POWER

FEDERAL POWER COMMISSION

[Order No. 66]

AMENDING THE PROVISIONAL RULES OF PRACTICE AND REGULATIONS UNDER THE NATURAL GAS ACT, WITH APPROVED FORMS

NOVEMBER 3, 1939.

Commissioners: Clyde L. Seavey, Chairman; Claude L. Draper, Basil Manly, Leland Olds, John W. Scott.

The Commission, pursuant to the authority vested in it under Executive Order No. 8202, dated July 13, 1939,[1] and finding such action necessary and desirable for carrying out the provisions of the said order and for effectuating the provisions of the Natural Gas Act (52 Stat. 821), hereby adopts, promulgates and prescribes the following amendments to the Provisional Rules of Practice and Regulations Under the Natural Gas Act,[2] effective July 11, 1938, as heretofore prescribed by Order No. 52, adopted July 5, 1938;

A new subheading and new sections under Part 53 are hereby adopted, which shall read as follows:

APPLICATION FOR CONSTRUCTION, OPERATION, MAINTENANCE, OR CONNECTION AT INTERNATIONAL BOUNDARY OF UNITED STATES AND A FOREIGN COUNTRY, OF FACILITIES FOR EXPORTATION OR IMPORTATION OF NATURAL GAS TO OR FROM FOREIGN COUNTRIES, UNDER EXECUTIVE ORDER NO. 8202, DATED JULY 13, 1939

§ 53.10 *Who shall apply.* Any person, firm, or corporation contemplating the construction of, or who is operating or maintaining facilities at the borders of the United States, for the exportation or the importation of natural gas to or from a foreign country, shall file with the Commission an application for a Presidential Permit, in compliance with Executive Order No. 8202, dated July 13, 1939.

§ 53.11 *Contents of application.* Every application shall set forth in the order indicated, the following:

(1) Information regarding applicant:

(a) The exact legal name of applicant;

(b) The name, title, and post office address of the person to whom correspondence in regard to the application shall be addressed;

(c) If applicant is a corporation: Copy of articles of incorporation and by-laws; the amount and classes of capital stock; nationality of officers, directors, and stockholders and the amount and class of stock held by each;

(d) Is applicant company, or its transmission lines, owned wholly or in part by any foreign government or directly, or indirectly subventioned by any foreign government; or, has applicant company any understanding for such ownership or by subvention from any foreign government; if so, give full details.

(2) A general or key map on a scale not greater than 20 miles to the inch, showing the physical location and giving a full description of the facilities employed, or to be employed in the exportation or importation of natural gas at the international boundary;

(3) Statement describing every existing contract that applicant has with a foreign government, or private concerns, which in any way relate to the control or fixing of rates for the purchase, sale or transportation of natural gas and which may serve in any way to restrict or prevent competing American companies from extending their activities; also, attach certified copies of such contracts;

(4) Copies of every landing license, or permit, which has been granted applicant, or any predecessor, by a foreign government or by any of its agencies, in connection with the exportation or importation of natural gas;

§ 53.12 *Other information.* The applicant shall furnish such additional information, in connection with the application, as the Commission may deem pertinent.

The amendments to the Provisional Rules of Practice and Regulations Under the Natural Gas Act, effective July 11, 1938, adopted, promulgated and prescribed by this order shall become effective on December 12, 1939; and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 39-4139; Filed, November 8, 1939; 9:20 a. m.]

[Order No. 67]

AMENDING THE RULES OF PRACTICE AND REGULATIONS UNDER THE FEDERAL POWER ACT, WITH APPROVED FORMS

NOVEMBER 3, 1939.

Commissioners: Clyde L. Seavey, chairman; Claude L. Draper, Basil Manly, Leland Olds, John W. Scott.

The Commission, pursuant to the authority vested in it under Executive Order No. 8202, dated July 13, 1939,[1] and finding such action necessary and desirable for carrying out the provisions of the said order and for effectuating the provisions of the Federal Power Act (49 Stat. 838) hereby adopts, promulgates and prescribes the following amendments to the Rules of Practice and Regulations, With Approved Forms, Effective June 1, 1938 (under the Federal Power Act), as heretofore prescribed by Order No. 50, adopted April 19, 1938;

A new subheading and new sections under Part 32 are hereby adopted, which shall read as follows:

APPLICATION FOR CONSTRUCTION, OPERATION, MAINTENANCE, OR CONNECTION AT INTERNATIONAL BOUNDARY OF UNITED STATES AND A FOREIGN COUNTRY, OF FACILITIES FOR TRANSMISSION OF ELECTRIC ENERGY BETWEEN UNITED STATES AND FOREIGN COUNTRIES, UNDER EXECUTIVE ORDER NO. 8202, DATED JULY 13, 1939

§32.50 *Who shall apply.* Any person, firm, or corporation contemplating the construction of, or who is operating or maintaining facilities at the borders of the United States, for the transmission of electric energy between the United States and a foreign country, shall file with the Commission an application for a Presidential Permit, in compliance with Executive Order No. 8202, dated July 13, 1939.

§ 32.51 *Contents of application.* Every application shall set forth in the order indicated, the following:

(1) Information regarding applicant:

(a) The exact legal name of applicant;

(b) The name, title, and post office address of the person to whom correspondence in regard to the application shall be addressed;

(c) If applicant is a corporation: Copy of articles of incorporation and by-laws; the amount and classes of capital stock; nationally of officers, directors and stockholders and the amount and class of stock held by each;

(d) Is applicant company, or its transmission lines, owned wholly or in part by any foreign government or directly, or indirectly subventioned by any foreign government; or, has applicant company any understanding for such ownership by or subvention from any foreign government? If so, give full details;

(2) A general or key map on a scale not greater than 20 miles to the inch, showing the physical location and giving a full description of the facilities employed, or to be employed in the transmission of electric energy between the United States and a foreign country;

(3) Statement describing every existing contract that applicant has with a foreign government, or private concerns, which in any way relate to the control or fixing of rates for the purchase, sale or transmission of electric energy and which may serve in any way to restrict or prevent competing American companies from extending their activities; also, attach certified copies of such contracts;

(4) Copies of every landing license, or permit, which has been granted applicant, or any predecessor, by a foreign government or by any of its agencies, in connection with the transmission of electric energy between the United States and a foreign country;

§ 32.52 *Other information.* The applicant shall furnish such additional information, in connection with the application, as the Commission may deem pertinent.

[1] 4 F.R. 3243 DI.
[2] 3 F.R. 1681 DI.

[1] 4 F.R. 3243 DI.

The amendments of the Rules of Practice and Regulations, With Approved Forms, Effective June 1, 1938 (under the Federal Power Act), adopted, promulgated and prescribed by this order shall become effective on December 12, 1939; and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 39-4140; Filed, November 8, 1939; 9:20 a.m.]

[Order No. 68]

AMENDING THE PROVISIONAL RULES OF PRACTICE AND REGULATIONS UNDER THE NATURAL GAS ACT, WITH APPROVED FORMS

NOVEMBER 3, 1939.

Commissioners: Clyde L. Seavey, Chairman; Claude L. Draper, Basil Manly, Leland Olds, John W. Scott.

The Commission, pursuant to authority vested in it by the Natural Gas Act, particularly Sec. 16 thereof, and finding such action necessary and appropriate for carrying out the provisions of said Act, hereby adopts, promulgates and prescribes the following amendments to the Provisional Rules of Practice and Regulations under the Natural Gas Act,[1] effective July 11, 1938, as heretofore prescribed by Order No. 52, adopted July 5, 1938;

(A) Sec. 53.3 of Part 53 (Contents of application) be and it is hereby amended to hereafter read as follows:

§ 53.3 *Contents of application.* Every application shall set forth in the order indicated the following:

(1) The exact legal name of applicant;

(2) The name, title, and post office address of the person to whom correspondence in regard to the application shall be addressed;

(3) If a corporation, the State or territory under the laws of which the applicant was organized, and the town or city where applicant's principal office is located. If applicant is incorporated under the laws of, or authorized to operate in more than one State, all pertinent facts should be stated;

(4) A statement giving the name and location of the field or fields in which the gas proposed to be exported or imported is produced and the most recent estimate of the remaining natural-gas reserves in such field or fields;

(5) If the application is for authority to export natural gas, state the name of the purchaser of the gas proposed to be exported, its proposed use in the foreign country, and the rate or rates proposed to be charged the purchaser for such gas, together with the rate or rates charged by the applicant for similar service, if rendered in the United States;

(6) If the application is for authority to import natural gas, state the name of the seller and of the producer of the gas proposed to be imported, and the rate or rates proposed to be paid by the applicant for the said gas;

(7) A description of the facilities utilized in the proposed exportation or the importation of natural gas;

(8) A statement of the reasons why the proposed exportation or importation of natural gas (a) will not be inconsistent with the public interest and (b) will not in any way impair the ability of applicant to render natural gas service at reasonable rates to its customers in the United States.

(B) A new section, to be known as Sec. 53.4, is hereby adopted, which section shall read as follows:

§ 53.4. *Required Exhibits.* There shall be filed with the application and as a part thereof the following exhibits:

Exhibit A. Photostatic, or certified copy of Articles of Incorporation and By-Laws of applicant company;

Exhibit B. A detailed statement of the financial and corporate relationship existing between applicant and any other person or corporation;

Exhibit C. Statement, including signed opinion of counsel, showing that the exportation or the importation of natural gas is within the corporate powers of applicant, and that applicant has complied with State laws and with the rules and regulations of State regulatory authorities in the State or States in which applicant operates;

Exhibit D. If the application is for authority to export natural gas, copy of the contract or contracts with purchasers in the foreign country of the natural gas proposed to be exported by applicant;

Exhibit E. If the application is for authority to import natural gas, copy of the contract or contracts with the producer or seller in the foreign country of the natural gas proposed to be imported;

Exhibit F. A general or key map on a scale not greater than 20 miles to the inch, showing the physical location of the facilities utilized in the applicant's proposed export or import operations.

(C) A new section to be known as Sec. 53.5, is hereby adopted, which section shall read as follows:

§ 53.5. *Other Information.* The applicant shall furnish such additional information as the Commission may deem pertinent.

The amendments to the Provisional Rules of Practice and Regulations under the Natural Gas Act adopted, promulgated and prescribed by this order, shall become effective as of December 12, 1939; and the Secretary of the Commission shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

[SEAL] LEON M. FUQUAY, *Secretary.*

[F. R. Doc. 39-4141; Filed, November 8, 1939; 9:20 a. m.]

[1] 3 F.R. 1681 DI.

TITLE 47—TELECOMMUNICATION

FEDERAL COMMUNICATIONS COMMISSION

PART 4—RULES GOVERNING BROADCAST SERVICES OTHER THAN STANDARD BROADCAST

The Commission on November 7, 1939, effective immediately, amended Section 4.25 (b),[1] to read:

(b) A relay broadcast station assigned frequencies in Groups D, E, F and G will not be authorized to install equipment or licensed for an output power in excess of 100 watts; provided that before using any frequency in these groups with a power in excess of 25 watts, tests shall be made by the licensee to insure that no objectionable interference will result to the service of any government station, and provided, further, that if the use of any frequency may cause interference then the power shall be reduced to 25 watts or another frequency in the licensed group selected which will not cause objectionable interference.

(Sec. 4 (i), 48 Stat. 1066; 47 U.S.C. 154 (i)—Sec. 303 (f), 48 Stat. 1082; 47 U.S.C. 303 (f))

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 39-4149; Filed, November 8, 1939; 12:11 p. m.]

[1] 4 F.R. 1667 DI. In this part, Sections 41.01–41.06 have been renumbered 4.21–4.26.

Notices

DEPARTMENT OF AGRICULTURE.

Food and Drug Administration.

REPORT OF PRESIDING OFFICER, SUGGESTED FINDINGS OF FACT, CONCLUSIONS AND ORDER RELATIVE TO IDENTITY OF CANNED PEAS

IN THE MATTER OF PUBLIC HEARINGS FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMULGATED (A) (1) FIXING AND ESTABLISHING A REASONABLE DEFINITION AND STANDARD OF IDENTITY, (2) REQUIRING LABEL DECLARATION OF CERTAIN OPTIONAL INGREDIENTS; (B) (1) FIXING AND ESTABLISHING A REASONABLE STANDARD OF QUALITY, (2) SPECIFYING FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD QUALITY; (C) (1) FIXING AND

ESTABLISHING A REASONABLE STANDARD OF FILL OF CONTAINER, (2) SPECIFYING FORM AND MANNER OF LABEL STATEMENT OF SUBSTANDARD FILL OF CONTAINER; FOR THE FOOD COMMONLY KNOWN AS CANNED PEAS

General Statement

1. In conformity with subsection (e) of Section 701 of the Federal Food, Drug, and Cosmetic Act [Section 701, 52 Stat. 1055; 21 U.S.C. 371 (e)], the Secretary of Agriculture on his own initiative published on March 7, 1939, which appeared on page 1148 of the FEDERAL REGISTER, a notice of a public hearing to be held on April 17, 1939, in the South Ballroom, Tenth Floor, Raleigh Hotel, Twelfth Street and Pennsylvania Avenue NW., Washington, D. C., for the purpose of receiving evidence upon the basis of which, in pursuance of the authority vested in the Secretary of Agriculture by the provisions of Sections 401, 403 (g), (2), and 403 (h), (1) and (2) [Secs. 401, 403 (g), (2), and 403 (h), (1) and (2), 52 Stat. 1046 and 1047; 21 U.S.C. 341, 343 (g), (2), and 343 (h), (1) and (2)], regulations may be promulgated (a) (1) fixing and establishing a reasonable definition and standard of identity, and (2) requiring the label declaration of certain optional ingredients; (b) (1) fixing and establishing a reasonable standard of quality, and (2) specifying the form and manner of label statements of substandard quality; and (c) (1) fixing and establishing a reasonable standard of fill of container, and (2) specifying the form and manner of label statements of substandard fill of container; for the food commonly known as canned peas. The notice contained a proposal, in general terms, for defining and so standardizing such food. John McDill Fox was designated as presiding officer to conduct such hearing. Thereafter, a public hearing was held at the time and place specified, and John McDill Fox acted as presiding officer. (Government's Exhibit No. 1)

2. At said hearing the presiding officer announced that he would first hold a hearing for the purpose of receiving evidence upon the basis of which a regulation may be promulgated fixing and establishing a reasonable definition and standard of identity for the food commonly known as canned peas and that the hearing would proceed in the order set forth in the FEDERAL REGISTER of March 7, 1939.

3. On April 17, 1939, at 10 a. m., the hearing for the purpose of receiving evidence upon the basis of which a regulation may be promulgated fixing and establishing a reasonable definition and standard of identity for the food commonly known as canned peas was convened, and was adjourned from time to time until April 19, 1939, at 11: 30 a. m., when it was reconvened, and was concluded at 3: 50 p. m., on April 20, 1939. All interested persons were notified, pursuant to the rules of procedure, of their opportunity to file proposed findings of fact and argument.

4. Within the time announced at the hearing within which interested persons might file written argument, proposed findings of fact, or both, various interested persons filed proposed findings of fact, together with written argument in support thereof, based upon the evidence adduced at the hearing, which, if granted, would modify the proposal contained in the FEDERAL REGISTER.

5. Pursuant to the rules of procedure, the presiding officer, therefore, makes this his report and suggests that the Secretary issue the regulation hereinafter set forth and make, on the basis of the substantial evidence of record at the hearing, the findings of fact herein contained as part of the order promulgating and making public such regulation.

Suggested Findings

1. Canned peas are the food prepared from shelled common peas of any variety of *Pisum sativum*. Salt, sugar, dextrose or other seasonings may be added. The ingredients are sealed in a container and processed by heat. (R. pp. 36, 101–102, 252–254)

2. The food has a characteristic flavor, odor, appearance, both as to shape and color of the finished peas, texture and liquid. All canned peas have the same identifying characteristics. (R. pp. 36, 58, 102, 118–122)

3. The characteristic flavor of canned peas is the flavor of cooked peas fresh from the garden, preserved and restored to the degree that the canning process permits. All canned peas have the same flavor in differing degrees of intensity, and such flavor distinguishes the food from all other foods. (R. pp. 36–37, 102)

4. Canned peas have a characteristic odor which is the odor of cooked peas fresh from the garden, preserved or restored in so far as the canning process permits. All canned peas have the same characteristic odor in differing degrees of intensity. (R. pp. 37, 102)

5. Canned peas have a characteristic appearance both as to shape (which is a general effect of roundness, although sizes may vary) and as to color, which is always green, although the intensity of the green color depends on the variety of the peas, the stage of their growth at the time they are canned, and the processes used in canning them. (R. pp. 37, 102–103, 118–122)

6. Canned peas also contain a characteristic liquid consisting largely of water, colored or clouded by the elements which cook from the peas in the canning process. The extent to which the liquid is colored or cloudy is governed by the stage of growth at which the peas were canned, and also the length of time since the peas were canned, and by such conditions of storage as temperature. Such liquid is colored or clouded to some extent in all cases. (R. pp. 38, 103)

7. The characteristic flavor and odor of canned peas result from the combination of soluble and volatile substances that make up the product, including sugar, dextrose, salt, and other constituents. The shape is a natural attribute. The color results from the transparency of the skin and the natural color of the cotyledons. Young, succulent peas appear greener than old, dry or partly dried peas because the cotyledons are held more closely against the skin by their greater moisture content. Dry peas processed so that they are swelled with water appear greener than many fairly succulent peas of the same variety, both before and after cooking. The characteristic texture of peas results in part from their moisture content and in part from the soluble solids they contain, but, principally, from the insoluble solids such as cellulose and starch. (R. pp. 38–39, 102–103)

8. Canned peas have a characteristic chemical composition. All varieties have the same constituents in varying proportions. It is not possible to distinguish between various kinds of canned peas by a chemical examination of the entire contents of the can. (R. pp. 39–40)

9. Canned peas are used as a vegetable dish either alone or mixed with other vegetables. They are also used to make pea soup and are used in other soups, and are some times used in salads, omelets, stews, and meat loaves. All types of canned peas are used interchangeably for the same food purposes. (R. p. 40)

10. The ingredients present in canned peas are shelled peas horticulturally known as *Pisum sativum*, water, and possibly salt, sugar, dextrose, or other seasonings. (R. pp. 41, 131, 144–146)

11. There are two distinct horticultural types of *Pisum sativum*, those in which the skins of the dry seed are smooth and those in which the skins are wrinkled. The size of peas varies, depending on the variety. One type is commonly known as early peas, and the other type is known as sweet peas. There are many varieties of the sweet type, but there is some evidence that the smooth-skinned or early peas are all strains of the Alaska variety, although they are sold under many other varietal names. (R. pp. 41, 77, 115–116, 252–253)

12. Peas of both varieties have the same identifying characteristic flavor, although the degree of sweetness is higher in sweet peas than in early peas; the same odor; the same shapes and sizes, although the dry seed of sweet peas is wrinkled, whereas the dry seed of early peas is smooth; most varieties of sweet peas are somewhat larger than early peas; and the same characteristic green color. (R. pp. 41–42)

13. Peas of either the smooth-skinned or early type, or of the sweet or wrinkled type, are optional pea ingredients of canned peas. (R. pp. 42, 103, 252–253)

14. The common name of the smooth-skinned type of peas is "Early Peas", and the common name of the sweet or wrinkled type of peas is "Sweet Peas." (R. pp. 103, 108, 109, 201, 249, 254)

15. Early Peas have been variously known as "Early", "Early June", and "June." "Early June" is confusing because it sometimes means a specific sieve size of the Alaska variety and means standard grade in some instances. (R. pp. 69, 161, 175, 191, 195, 206, 207, 223)

16. Peas are succulent during their growing period because they have a high moisture content which makes them tender. As they ripen they lose their moisture content by evaporation, and when fully ripened they are hard and dry. This necessitates the restoration of the moisture content before fully ripened peas can be made into the product commonly known as canned peas. (R. pp. 42–43)

17. Peas in both the succulent state and the dried state are canned by identical processes, with the exception of the restoration of their former moisture content to the dried peas. (R. pp. 43–45)

18. Canned peas prepared from succulent and from dried peas have the same identifying characteristics, i. e., flavor, odor, shape, color and texture in differing degrees of intensity. (R. pp. 45, 104)

19. Peas in either the succulent state or the dried state are an optional pea ingredient of canned peas. (R. pp. 45, 103–104, 252–253)

20. The common name of peas in the succulent state is simply "Peas" with the name of the varietal type of peas, and the common name of peas in the dry state is "Dried Peas" with the name of the varietal type of peas. (R. pp. 45–46, 104, 253)

21. Early Peas and Sweet Peas are not mixed in commercial canning. (R. pp. 46, 252–253)

22. Water is an essential ingredient of canned peas. Its presence is expected and it would serve no good purpose to indicate its presence on the label. It is necessary to so process the product as to prevent spoilage. (R. pp. 46, 117–118, 252–253)

23. Seasonings may be ingredients of canned peas. Salt is always used and sugar and dextrose are sometimes used. Flavorings such as mint oil or mint extract, or seasonings such as mint leaf, green peppers, onions, garlic, horseradish, and other condimental vegetable seasonings are sometimes used. (R. pp. 46, 112–113, 114–115, 127–133, 139–140, 144–146, 188, 253, Affidavits of F. F. Torsch and Sydney P. Craig)

24. The use of seasoning is not universal. It is optional, but its use takes away no identifying characteristics of the product. (R. pp. 46, 253)

25. Such seasonings may be used singly or in combination, and the quantity used is self-controlling. (R. pp. 46–47, 55, 56–57, 79, 86–87, 89, 113, 253)

26. Each of such seasonings has a common name, to wit: salt, sugar, dextrose, flavoring, mint leaves, green peppers, onions, garlic, horseradish, and the common name of other vegetables used as seasonings. (R. pp. 47, 55, 84–85, 133–134, 253–254, 261)

27. It is essential to the identity of canned peas that they be sealed in a container. (R. p. 47)

28. It is essential to the identity of canned peas that they be processed by heat so as to prevent spoilage. (R. p. 47)

29. Canned peas have never been known by any name other than canned peas. (R. pp. 47, 105)

30. The optional pea ingredient should be declared on the label by their common names, that is, Early Peas, Sweet Peas, Dried Early Peas, or Dried Sweet Peas, if the consumer is to be accurately informed of the character of the product. (R. pp. 48, 71, 105, 178–179, 186–187.

31. Inasmuch as water, salt, and sugar are generally used in the preparation of canned peas, and within the last few years, dextrose, together with sugar, and inasmuch as the sweetening ingredient is relatively slight, the declaration of the presence of water, salt, sugar, or dextrose would furnish the consumer no useful information. (R. pp. 48, 75, 93–96, 105–106, 111, 130, 245, 256, 260, 262)

32. Other seasonings are not universally used in the preparation of canned peas and their presence may not be anticipated by the consumer. In order to furnish full information as to the character of the product, it is necessary that their presence be declared by their common names on the label. (R. pp. 48, 75, 112)

33. Such products are highly flavorsome, adding their odor and taste to the characteristic pea flavor. (R. pp. 48–49)

34. Honesty and fair dealing in the interest of the consumer requires that wherever the name "Peas" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the names of the optional ingredients present shall immediately and conspicuously precede or follow such name without intervening written, printed, or graphic matter, except that the specific varietal name of the peas may so intervene.

Suggested Conclusion in the Form of a Regulation

Upon the basis of the foregoing findings of fact, the following reasonable definition and standard of identity for the food commonly known as canned peas is hereby suggested to be promulgated as a regulation:

§ 51.000 *Canned peas—Identity; label statement of optional ingredients.* (a) Canned peas are the food prepared from one of the following optional ingredients:

(1) Shelled, succulent peas (*Pisum sativum*) of Alaska or other smooth skin varieties;

(2) Shelled, succulent peas (*Pisum sativum*) of sweet, wrinkled varieties;

(3) Shelled, dried peas (*Pisum sativum*) of Alaska or other smooth skin varieties;

(4) Shelled, dried peas (*Pisum sativum*) of sweet, wrinkled varieties.

To such ingredient water is added. The food may be seasoned with one or more of the optional ingredients:

(5) Salt;
(6) Sugar;
(7) Dextrose;
(8) Flavoring;
(9) Spice;
(10) Green peppers, mint leaves, onions, garlic, horseradish, or other condimental seasonings.

The food is sealed in a container and so processed by heat as to prevent spoilage.

(b) The label shall bear the word or words "Early"; "Sweet"; "Dried Early"; or "Dried Sweet"; showing respectively the presence of optional ingredient (1), (2), (3), or (4), as the case may be. If optional ingredient (8) or (9) is present, the label shall bear the statement "Flavoring Added", or "With Added Flavoring"; "Spice Added", or "With Added Spice"; as the case may be. In lieu of the words "Flavoring" and "Spice", the common or usual name of the flavoring or spice may be used in such statement. If optional ingredient (10) is present, the label shall bear the words "Seasoned With Green Peppers"; "Seasoned With Mint Leaves"; "Seasoned With Onions"; "Seasoned With Garlic"; "Seasoned With Horseradish"; or "Seasoned With _____", the blank to be filled in with the common name of such other condimental vegetable seasoning, as the case may be. Wherever the name "Peas" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, the words and statements herein specified showing the optional ingredients present shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter, except that the specific varietal name of the peas may so intervene.

Time Within Which to File Objections

Within ten days after the receipt of the copy of the FEDERAL REGISTER containing this report, any interested person who wishes to object to any matter set out in the suggested findings of fact and suggested conclusion in the form of a regulation shall transmit such objection in writing to the Hearing Clerk. At the same time, each such interested person shall transmit in writing to the Hearing Clerk a brief statement concerning each of the objections taken to the action of

the presiding officer upon which he wishes to rely, referring where relevant to the pages of the transcript of evidence.

Respectfully submitted.

[SEAL] JOHN McDILL FOX,
Presiding Officer.

OCTOBER 19, 1939.

[F. R. Doc. 39-4136; Filed, November 7, 1939; 3:17 p. m.]

DEPARTMENT OF LABOR.

Wage and Hour Division.

APPLICATION THE WORK GLOVE INSTITUTE, NATIONAL ASSOCIATION OF LEATHER GLOVE MFGS., INC., UNDERWEAR INSTITUTE, AND SUNDRY OTHER PARTIES PURSUANT TO SECTION 14 OF THE FAIR LABOR STANDARDS ACT OF 1938, AND RULES AND REGULATIONS ISSUED THEREUNDER FOR PERMISSION TO EMPLOY LEARNERS IN THE GLOVE INDUSTRY AT WAGE RATES LESS THAN THE APPLICABLE MINIMUM SPECIFIED IN SECTION 6

NOTICE OF HEARING

Whereas, applications have been made by the Work Glove Institute, National Association of Leather Glove Mfgs., Inc., Underwear Institute, and sundry other parties under Section 14 of the Fair Labor Standards Act of 1938, 52 Stat. 1060, and Regulations, Part 522, as amended (Regulations applicable to the Employment of Learners pursuant to Section 14 of the Fair Labor Standards Act—Title 29, Labor, Chapter V, Wage and Hour Division) issued by the Administrator thereunder for permission to employ learners in the glove branch of the apparel industry at wages less than the applicable minimum wage specified in Section 6 of the Act; and

Whereas, interested parties have asked that this hearing be held at the earliest possible date preferably during the week of November 13, 1939; and

Whereas, there is reason to believe that no interested party will be prejudiced by the holding of this hearing on November 16, 1939;

Now, therefore, pursuant to the said Act and Section 522.4 of the said Regulations, notice is hereby given of a public hearing to be held in Room 214, Hutchins Building, 939 D Street, Northwest, Washington, D. C., to commence at 10 A. M., on Thursday, November 16, 1939, before Merle D. Vincent, hereby duly authorized as presiding officer to conduct said hearing, to take testimony for the purpose of determining, and to determine both under the minimum wage rates applicable October 24, 1939 and under such higher minimum wage rates as have been recommended by Industry Committee No. 2 for the apparel industry:

(a) What, if any, occupation or occupations in the glove branch of the apparel industry require a learning period, and

(b) the factors which may have a bearing upon curtailment of opportunities for employment within the glove branch of the apparel industry, and

(c) under what limitations as to wages, time, number, proportion, and length of service special certificates may be issued to employers in the glove branch of the apparel industry for whatever occupation or occupations, if any, are found to require a learning period.

At this hearing opportunity to present evidence relevant to the above questions will be afforded any interested person provided the presiding officer, Merle D. Vincent, Chief of the Hearings and Exemptions Section of the Wage and Hour Division, shall have received from such person, prior to noon, Wednesday, November 15, 1939, a notice of intention to appear setting forth his name and address, the company or organization which he represents, and specifying the division of the glove branch of the apparel industry to which his testimony will be directed and the approximate length of such presentation.

As used in this notice, the term "glove branch of the apparel industry" means: "The manufacture of all gloves and mittens (except athletic) other than work gloves and mittens, from leather, woven or knitted fabrics or from any combinations of these materials, and the manufacture of work gloves and mittens from fabric, leather, or fabric and leather combined, or knitted materials."

Signed at Washington, D. C., this 8 day of November, 1939.

HAROLD D. JACOBS,
Acting Administrator.

[F. R. Doc. 39-4151; Filed, November 8, 1939; 12:39 p. m.]

FEDERAL COMMUNICATIONS COMMISSION.

[Docket No. 5430]

IN RE APPLICATION OF JOHN H. STENGER, JR. (WBAX)

Dated, September 23, 1938; for renewal of license; class of service, broadcast; class of station, broadcast; location, Wilkes-Barre, Pa.; operating assignment specified: Frequency, 1210 kc.; power—100 w., night—100 w., day; hours of operation, unlimited

[File No. B2-R-378]

NOTICE OF HEARING

You are hereby notified that the Commission redesignated the above application for hearing, to be based on the following issues which supersede the issues contained in the notice of designation mailed under date of December 28, 1938:

1. To determine the financial qualifications of the licensee to operate this station.

2. To determine whether the licensee has at all times exercised control over the physical operation and program service of this station, particularly during the entire period subsequent to December 19, 1936.

3. To determine whether during the years 1936, 1938, and 1939 the station license, the frequency authorized to be used, and the rights granted therein were transferred, assigned, or in any manner disposed of, either directly or indirectly, to any person without written consent of the Commission, in violation of the Communications Act of 1934, as amended, particularly Section 310 (b) thereof.

4. To determine whether the Stenger Broadcasting Corporation and Glenn D. Gillett, or either of them, have at any time engaged in the operation of this station, in violation of the Communications Act of 1934, as amended, particularly Sections 301 and 310 (b) thereof.

5. To determine whether the granting of this application and the continued operation of the station will serve public interest, convenience, and necessity.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

John H. Stenger, Jr.,
Radio Station WBAX
The Orpheum Theatre Building,
141 South Main St.,
Wilkes-Barre, Pa.

Dated at Washington, D. C., November 6, 1939.

By the Commission.

[SEAL] T. J. SLOWIE,
Secretary.

[F. R. Doc. 39-4132; Filed, November 7, 1939; 1:38 p. m.]

[Docket No. 5788]

IN RE APPLICATION OF E. J. REGAN AND F. ARTHUR BOSTWICK, D/B AS REGAN & BOSTWICK (WQDM)

Dated, February 25, 1939; for renewal of license; class of service, broadcast; class of station, broadcast; location, St. Albans, Vt.; operating assignment specified: Frequency, 1390 kc.; power—1 kw., day; hours of operation, daytime

[File No. B1-R-768]

NOTICE OF HEARING

You are hereby notified that the Commission has examined the above described application and has designated

the matter for hearing for the folowing reasons:

1. To determine the financial qualifications of the licensees to operate this station.

2. To determine whether the licensees have at all times exercised control over the physical operation and program service of this station, particularly during the entire period subsequent to May 1, 1938.

3. To determine whether during the year 1938 the station's license, the frequency authorized to be used, and the rights granted therein were transferred, assigned, or in any manner disposed of, either directly or indirectly, to any person without written consent of the Commission, in violation of the Communications Act of 1934, as amended, particularly Section 310 (b) thereof.

4. To determine whether Glenn D. Gillet and G. S. Wasser, or either of them, have ever engaged in the operation of this station, in violation of the Communications Act of 1934, as amended, particularly Sections 301 and 310 (b) thereof.

5. To determine whether the granting of this application and the continued operation of the station will serve public interest, convenience, and necessity.

The application involved herein will not be granted by the Commission unless the issues listed above are determined in favor of the applicant on the basis of a record duly and properly made by means of a formal hearing.

The applicant is hereby given the opportunity to obtain a hearing on such issues by filing a written appearance in accordance with the provisions of Section 1.382 (b) of the Commission's Rules of Practice and Procedure. Persons other than the applicant who desire to be heard must file a petition to intervene in accordance with the provisions of Section 1.102 of the Commission's Rules of Practice and Procedure.

The applicant's address is as follows:

E. J. Regan & F. A. Bostwick, d/b as Regan & Bostwick, Radio Station WQDM,
32 North Main St.,
St. Albans, Vt.

Dated at Washington, D. C., November 6, 1939.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 39-4133; Filed, November 7, 1939; 1:38 p. m.]

FIXED PUBLIC RADIO SERVICES (EXCEPT ALASKA)

NOTICE

The Commision, having revised its rules Governing Fixed Public Radio Services (except Alaska),[1] effective December 1, 1939, and the prescribed forms of applications and authorizations for radio stations operating in the Fixed Public and Fixed Public Press Services (except Alaska), extended from 3 a. m. EST., December 1, 1939, until 3 a. m., EST., February 1, 1940, the licenses for such stations, subject to the same conditions and limitations as are contained in the outstanding authorizations. The Commission also directed that all applications for renewal of licenses of existing radio stations operating in the Fixed Public and Fixed Public Press Services (except Alaska) shall be filed with the Commission in accordance with the new prescribed forms on or before December 1, 1939.

By the Commission.

[SEAL] T. J. SLOWIE, *Secretary.*

[F. R. Doc. 39-4150; Filed, November 8, 1939; 12:11 p. m.]

[1] 4 F.R. 4462 DI.

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C. on the 6th day of November 1939.

[File No. 1-2601]

IN THE MATTER OF RHINE-WESTPHALIA ELECTRIC POWER CORPORATION-AMERICAN SHARES, 100 REICHSMARKS PAR VALUE, REPRESENTING DEPOSITED GERMAN COMMON STOCK

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the American Shares, 100 Reichsmarks Par Value, representing deposited German Common Stock, of Rhine-Westphalia Electric Power Corporation; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Tuesday, December 5, 1939, at the office of the Securities & Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commissioner or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be, and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-4143; Filed, November 8, 1939; 11:45 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of November 1939.

[File No. 1-1455]

IN THE MATTER OF CONNECTICUT RAILWAY AND LIGHTING COMPANY—5% CUMULATIVE PREFERRED STOCK, $100 PAR VALUE

ORDER SETTING HEARING ON APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X-12D2-1 (b) promulgated thereunder, having made application to strike from listing and registration the 5% Cumulative Preferred Stock, $100 Par Value, of Connecticut Railway and Lighting Company; and

The Commission deeming it necessary for the protection of investors that a hearing be held in this matter at which all interested persons be given an opportunity to be heard;

It is ordered, That the matter be set down for hearing at 10 A. M. on Thursday, December 7, 1939, at the office of the Securities and Exchange Commission, 120 Broadway, New York City, and continue thereafter at such times and places as the Commission or its officer herein designated shall determine, and that general notice thereof be given; and

It is further ordered, That Adrian C. Humphreys, an officer of the Commission, be and he hereby is designated to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda or other records deemed relevant or material to the inquiry, and to perform all other duties in connection therewith authorized by law.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-4145; Filed, November 8, 1939; 1:39 p. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C., on the 7th day of November 1939.

[File No. 1–1538]

IN THE MATTER OF POSTAL TELEGRAPH AND CABLE CORPORATION 7% NON-CUMULATIVE PREFERRED STOCK, $100 PAR VALUE

ORDER GRANTING APPLICATION TO STRIKE FROM LISTING AND REGISTRATION

The New York Stock Exchange, pursuant to Section 12 (d) of the Securities Exchange Act of 1934, as amended, and Rule X–12D2–1 (b) promulgated thereunder, having made application to strike from listing and registration the 7% Non-Cumulative Preferred Stock, $100 Par Value, of Postal Telegraph and Cable Corporation; and

After appropriate notice, a hearing having been held in this matter; and

The Commission having considered said application together with the evidence introduced at said hearing, and having due regard for the public interest and the protection of investors;

It is ordered, That said application be and the same is hereby granted, effective at the close of the trading session on November 17, 1939.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4146; Filed, November 8, 1939; 11:45 a.m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of November, A. D. 1939.

[File No. 43–256]

IN THE MATTER OF ASSOCIATED GAS AND ELECTRIC CORPORATION

NOTICE OF AND ORDER FOR HEARING

A Declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter be held on November 27, 1939, at 10: 00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before November 21, 1939.

The matter concerned herewith is in regard to the extension, until March 15, 1945, of $8,589,980 principal amount of 8% Eight Year Gold Bonds, due March 15, 1940. It is proposed that the Company offer to the present holders of its 8% Eight Year Gold Bonds, due March 15, 1940, an extension of the maturity of their bonds for five years to March 15, 1945, all other terms, conditions and restrictions of the issue to remain unchanged, except that from the date of extension to the extended maturity date the bonds shall be redeemable upon the terms and conditions set forth in the Indenture and Supplemental Indenture of March 15, 1932 upon payment of the principal thereof and accrued interest, and a premium on said principal of two per cent (2%) if redeemed after the date of extension and on or before March 15, 1941, of one and one-half per cent (1½%) if redeemed after March 15, 1941 and on or before March 15, 1942, of one percent (1%) if redeemed after March 15, 1942 and on or before March 15, 1943, of one-half of one per cent (½ of 1%) if redeemed after March 15, 1943 and on or before March 15, 1944, and without premium if redeemed after March 15, 1944. At the time of extension an advance payment of the interest due March 15, 1940 will be paid to holders extending their bonds.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39–4144; Filed, November 8, 1939; 11:45 a. m.]